

FILED

SEP 24 2012

PATRICK E. DUFFY, CLERK
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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
MISSOULA DIVISION

| | | |
|-------------------------|---|--------------------|
| RUSSELL ALAN GREER, |) | CV 12-68-M-DLC-JCL |
| |) | |
| Petitioner, |) | |
| |) | |
| vs. |) | ORDER |
| |) | |
| LEROY KIRKEGARD; |) | |
| ATTORNEY GENERAL of the |) | |
| STATE of MONTANA, |) | |
| |) | |
| Respondents. |) | |
| |) | |

Petitioner Russell Alan Greer filed this action for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. United States Magistrate Judge Jeremiah C. Lynch entered Findings and Recommendation on June 22, 2012, and recommended denying Greer's petition on the merits. Petitioner did not timely object to the Findings and Recommendation, and so has waived the right to de novo review of

the record. 28 U.S.C. § 636(b)(1). This Court will review the Findings and Recommendation for clear error. McDonnell Douglas Corp. v. Commodore Bus. Mach., Inc., 656 F.2d 1309, 1313 (9th Cir. 1981). Clear error exists if the Court is left with a “definite and firm conviction that a mistake has been committed.” United States v. Syrax, 235 F.3d 422, 427 (9th Cir. 2000).

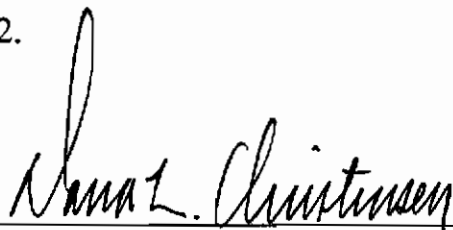
Greer’s petition seeks credit for time spent on conditional release. Judge Lynch found that neither federal nor state law entitles Greer to credit for that time. After a review of Judge Lynch’s Findings and Recommendation, I find no clear error. Accordingly,

IT IS HEREBY ORDERED that Judge Lynch’s Findings and Recommendation (doc. 5) are adopted in full. Greer’s Petition (doc. 1) is DENIED on the merits.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

The Clerk of Court is directed to enter, by separate document, a judgment in favor of Respondents and against Petitioner.

Dated this 23rd day of September, 2012.


Dana L. Christensen, District Judge
United States District Court